

HOUSE BILL 704

By Turner L

AN ACT to amend Tennessee Code Annotated, Title 47,
relative to certain mortgages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, is amended by adding Sections 2 through 3 of this act as a new chapter thereto.

SECTION 2. As used in this chapter, unless the context otherwise requires:

(1) "Adjustable rate mortgage", also known as "ARM" or "floating rate mortgage" means a mortgage with a flexible interest rate based on an index;

(2) "Authorized lender" or "lender" means:

(A) A bank, savings and loan association, savings bank, savings institution, or credit union chartered under the laws of the United States or of Tennessee; and

(B) Any other person authorized to make adjustable rate mortgage loans by the commissioner;

(3) "Borrower" means a natural person who occupies and owns in fee simple individually, or with another borrower as tenants by the entireties or as joint tenants with right of survivorship, an interest in residential real property securing an adjustable rate mortgage loan, and who borrows money under an adjustable rate mortgage loan;

(4) "Commissioner" means the commissioner of financial institutions; and

(5) "Counselor" means either:

(A) An individual who has completed a training curriculum on adjustable rate counseling provided or approved by the United States department of

housing and urban development and whose name is maintained on HUD's list of approved adjustable rate counselors; or

(B) A person or entity qualified under Fannie Mae guidelines to serve as a counselor in consumer education.

SECTION 3.

(a) No person, firm, or corporation shall engage in the business of making adjustable rate mortgage loans, unless such person, firm, or corporation is an authorized lender.

(b) Prior to accepting an application for an adjustable rate mortgage loan, an authorized lender shall refer the borrower to a counselor and shall receive certification from the counselor that all borrowers have received counseling.

(c) Any adjustable rate mortgage loan that does not contain certification from a counselor may be invalidated and converted to a fixed rate loan at the prime interest rate at a competing financial institution at the time of the invalidation of the mortgage.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.